



# County Technical Assistance Service

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## Providing Copies of Public Records

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Providing Copies of Public Records

**Reference Number:** CTAS-1157

In all cases in which a person has the right to inspect public records, he or she also has the right to take extracts or make copies of the record, or to make photographs or photostats of the record while it remains in the possession, custody, and control of the official who has lawful custody of the record.<sup>[1]</sup> In 1999, the attorney general interpreted this to mean that the Tennessee Public Records Act does not require a public official to make copies and send them to anyone regardless of whether or not they are a citizen of Tennessee.<sup>[2]</sup> However, this opinion is limited by a subsequent court decision. In the case of *Waller v. Bryan*,<sup>[3]</sup> the Tennessee Court of Appeals required public officials to make public records available to members of the public who could not visit the official's office under certain circumstances. In that case, an inmate appealed the ruling of a chancellor that he was not entitled to requested records which were in the possession of a police department. The local government refused to make copies of the requested records and mail them to the inmate. Obviously, his circumstances did not allow him to appear in person to inspect the records and make a copy. The Court of Appeals held that as long as a citizen can sufficiently identify the requested records so that the government office knows which records to copy, the official should comply with the records request. To refuse to do so merely because the citizen could not appear in person would, in the words of the court, "place form over substance and not be consistent with the clear intent of the Legislature."<sup>[4]</sup> The court observed that a requirement to appear in person would not only limit access to records by inmates, but also all those Tennessee citizens who were prevented by health problems or other physical limitations from appearing at the government office.

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<sup>[1]</sup> T.C.A. § 10-7-506(a).

<sup>[2]</sup> Op. Tenn. Att'y Gen. No. 99-067 (March 18, 1999).

<sup>[3]</sup> *Waller v. Bryan*, 16 S.W.3d 770, (Tenn. App. 1999).

<sup>[4]</sup> *Waller*, at 773.

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